

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

991C0850

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB1282 - 2/25/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representative Michels and Senator Everist

1 FOR AN ACT ENTITLED, An Act to revise the confidentiality related to certain patient
2 records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-4-26.2 be amended to read as follows:

5 36-4-26.2. Section 36-4-26.1 ~~applies neither to facts associated with a patient's treatment and~~
6 ~~care nor to patient records prepared in conjunction with~~ does not apply to observations made at
7 the time of treatment by a health care professional present during the patient's treatment or to
8 patient records prepared during the treatment and care rendered to a patient who is personally
9 or by personal representative a party to an action or proceeding, the subject matter of which is
10 the care and treatment of the patient. Furthermore, ~~after the notification of adverse parties as~~
11 ~~hereinafter provided, § 36-4-26.1 does not apply to the proceedings, records, reports,~~
12 ~~statements, minutes, or other data of any~~ no member of any committee, department, section,
13 board of directors, or group covered by § 36-4-26.1, in so far as ~~they relate to the statements or~~
14 ~~opinions of a member thereof made or rendered at its meeting, if the member is called as a~~
15 ~~witness on behalf of any party in an action involving the quality, type, or necessity of such care~~
16 ~~rendered. However:~~

1 ~~(1) Such information may only be used to impeach the testimony of such witness; and~~

2 ~~(2) Such witness may not testify unless the party calling the witness has notified all~~

3 ~~adverse parties to the action at least thirty days before trial of the person's intention~~

4 ~~to use such witness who has participated in deliberations under that section involving~~

5 ~~the subject matter of the action, may testify as an expert witness for any party in any~~

6 ~~action for personal injury or wrongful death, the subject matter of which is the care~~

7 ~~and treatment of the patient. Notwithstanding membership on a committee,~~

8 ~~department, section, board of directors, or group covered by § 36-4-26.1, a health~~

9 ~~care professional observing or participating in the patient's treatment and care may~~

10 ~~testify as a fact or expert witness concerning that treatment and care, but may not be~~

11 ~~required to testify as to anything protected by § 36-4-26.1.~~

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 284

3 2/2/99 Referred to Health and Human Services. H.J. 318

4 2/10/99 Scheduled for Committee hearing on this date.

5 2/12/99 Scheduled for Committee hearing on this date.

6 2/12/99 Health and Human Services Do Pass Amended, Failed, AYES 6, NAYS 5.

7 2/17/99 Health and Human Services Hog Housed.

8 2/17/99 Scheduled for Committee hearing on this date.

9 2/17/99 Health and Human Services Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 563

10 2/19/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 651

11 2/22/99 First read in Senate and referred to Judiciary. S.J. 620

12 2/24/99 Scheduled for Committee hearing on this date.

13 2/24/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 652